

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 87-23

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY

EAST BAY MUNICIPAL UTILITY DISTRICT
SPECIAL DISTRICT NO. 1
OAKLAND, ALAMEDA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Board), finds, pursuant to California Water Code Section 13323, that:

1. East Bay Municipal Utility District, Special District No. 1 (hereinafter the discharger) operates a wastewater interceptor and treatment plant serving seven East Bay communities.
2. As a result of a pump station failure and alarm system failure, the discharger discharged 8 million gallons of untreated sewage from its interceptor to Elmhurst Creek and thence to San Leandro Bay, both waters of the State and of the United States. The discharge lasted for about 14 hours, ending at about 6:30 am on December 18, 1986.
3. The discharge violated prohibition A.1 in Board Order No. 84-54 (NPDES Permit No. CA0037702, treatment plant discharge) and prohibition A.1 in Board Order No. 84-61 (NPDES Permit No. CA0038440, wet-weather discharges from overflow structures), both issued to the discharger. Both orders prohibit untreated sewage discharges from the discharger's interceptor, except for wet-weather discharges caused by excessive infiltration/inflow in the collection systems served by the discharger. The December 17-18 discharge was not the result of wet weather.
4. The failure at Pump Station H was caused by failure of instrumentation that both controls pump operation and warns of abnormally high water levels at the pump station. The discharger should have anticipated the possible consequences of this type of failure and had a back-up device to warn of a high-water condition. This type of reliability feature is dictated by principles of design reliability, and is common at other collection system pump stations under the Board's jurisdiction, including other pump stations run by the discharger. Consequently, the discharger negligently discharged or caused or permitted waste to be deposited where it was discharged to waters of the State.
5. The discharge had both observed and unquantifiable effects on water quality. It contributed to high bacteria counts in Elmhurst Creek and San Leandro Bay for several days after the discharge, in excess of water quality objectives for water-contact recreation and other beneficial uses

identified in the Board's Water Quality Control Plan for San Francisco Bay Basin. San Leandro Bay supports significant beneficial water uses, including shellfishing and water-contact recreation. The bay is mostly very shallow and has limited tidal exchange. As a result, it has a limited ability to assimilate pollutants typically found in untreated sewage. This discharge created a condition of pollution and nuisance.

6. The discharger took prompt corrective action, and the Board therefore did not consider issuing a Cleanup and Abatement Order.
7. On January 30, 1987, Complaint No. 87-02 was issued for Administrative Civil Liability due to the discharger's violation of the above-cited prohibitions in Board Orders No. 84-54 and 84-61.
8. The Executive Officer, in Complaint No. 87-02, proposed that administrative civil liability be imposed by the Regional Board in the amount of \$100,000 pursuant to Section 13350 of the California Water Code for negligently discharging or causing or permitting waste to be deposited where it was discharged to waters of the State. The proposed liability has not been paid, and the right to hearing has not been waived.
9. This action is an order to enforce waste discharge requirements adopted by the Board. It is therefore exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code (CEQA) pursuant to Section 15321 of the Resources Agency Guideline.
10. The Board on February 18 and March 18, 1987, after due notice to the discharger and other affected persons, conducted a public hearing at which the discharger appeared and evidence was received concerning the discharge.

IT IS HEREBY ORDERED, PURSUANT TO WATER CODE SECTION 13323 that East Bay Municipal Utility District, Special District No. 1, is civilly liable for this violation and shall pay administrative civil liability in the amount of \$100,000, of which \$30,000 is suspended provided that the discharger completes in a timely manner the mitigation projects proposed in its letter of February 17, 1987. Payment of the \$70,000 shall be made within 30 days of the date of this Order to the State Water Pollution Cleanup and Abatement account.

I, Roger B. James, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on March 18, 1987.

A handwritten signature in dark ink, appearing to read "Roger B. James", with a stylized flourish at the end.

ROGER B. JAMES
Executive Officer